

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Criminal Action No. 08-15-GMS
	:	
JEMAIN Z. DAVIS	:	
	:	
	:	
Defendant.	:	

**AMENDED MOTION OF THE UNITED STATES
FOR A PRELIMINARY ORDER OF FORFEITURE**

The United States of America, by and through Colm F. Connolly, United States Attorney for the District of Delaware, and David C. Weiss, Assistant United States Attorney for the District of Delaware, submits its Motion for a Preliminary Order of Forfeiture in the above-entitled case for the reasons set forth below. A proposed order is submitted with this motion.

1. Defendant has been convicted of the offenses alleged in Counts One and Two of the Felony Information. In the Felony Information, the United States gave notice to the defendant that, in the event of his conviction, he would be required to forfeit to the United States all proceeds derived from the offense alleged in Count One up to \$225,284.87.

2. On March 17, 2008, the Court accepted a Memorandum of Plea Agreement where the defendant agreed to the entry of a personal money judgment against him in the amount of \$225,184.87, for which the defendant will be jointly and severally liable with co-defendants Anthony Lofink and Stephano Roussos.

3. The United States has seized \$6,725.62 from the defendant, which currency is presently the subject of an administrative forfeiture proceeding. Other than this asset, the United States

has not, as of this date, identified specific assets that were derived from the violation specified in Count One of the Felony Information, or any other property of the defendant that could be forfeited as a substitute asset in accordance with 21 U.S.C. § 853(p). The United States may request by separate motion leave to take discovery to identify substitute assets.

4. The government expects that the administrative forfeiture of the \$6,725.62 will be completed in the near future; therefore, this amount can be subtracted from the money judgment specified in the Memorandum of Plea Agreement. Accordingly, the United States seeks the entry of a Preliminary Order of Forfeiture consisting of a personal money judgment against the defendant in the amount of \$218,559.25, for which the defendant will be jointly and severally liable with co-defendants Anthony Lofink and Stephano Roussos.

5. The entry of a Preliminary Order of Forfeiture in the form of a personal money judgment specifically authorized by Rule 32.2(b)(1) and (c)(1) of the Federal Rules of Criminal Procedure. Such orders of forfeiture are commonplace. See *United States v. Voigt*, 89 F.3d 1050, 1084, 1088 (3d Cir. 1996) (the Government is entitled to a personal money judgment equal to the amount of money involved in the money laundering offense); *United States v. Vampire Nation*, 451 F.3d 189, 202 (3d Cir. 2006) (approving of money judgments in criminal cases).

6. Once the Preliminary Order of Forfeiture is entered, the Government may move at any time, pursuant to Rule 32.2(e)(1)(B), to amend the Order to forfeit specific property of the defendant, having a value up to the amount of the money judgment, as substitute assets. See *Voight*, 89 F.3d at 1088 (once the Government has obtained a money judgment, it may forfeit defendant's assets in partial satisfaction of that judgment).

WHEREFORE, the United States respectfully requests that this Court enter a preliminary order of forfeiture as proposed in the attached order.

Respectfully Submitted,

COLM F. CONNOLLY
United States Attorney

By:

A handwritten signature in black ink, appearing to read 'David C. Weiss', is written over a horizontal line.

David C. Weiss
First Assistant United States Attorney

DATED: July 11, 2008

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FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,	:	
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Plaintiff,	:	
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v.	:	Criminal Action No. 08-15-GMS
	:	
JEMAIN Z. DAVIS,	:	
	:	
Defendant.	:	

PRELIMINARY ORDER OF FORFEITURE

THIS ___ day of _____, 2008, IT IS HEREBY ORDERED that:

WHEREAS, on March 17, 2008, the defendant Jemain Z. Davis entered a plea of guilty to a Two-Count Felony Information where he agreed to the entry of a money judgment in the amount of \$225,284.87; and

WHEREAS, the United States filed an Amended Motion for Entry of a Preliminary Order of Forfeiture which would consist of a personal money judgment against the defendant in the amount of \$218,559.25, for which the defendant will be jointly and severally liable with co-defendants Anthony Lofink and Stephano Roussos; and

WHEREAS, Rule 32.2(c)(1) provides that "no ancillary proceeding is required to the extent that the forfeiture consists of a money judgment;"

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED this ___ day of _____, 2008 that the Defendant shall forfeit to the United States the sum of \$218,559.25 pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c);

IT IS FURTHER ORDERED that the United States District Court shall retain jurisdiction in the case for the purpose of enforcing this Order; and

IT IS FURTHER ORDERED that pursuant to Rule 32.2(b)(3), this Preliminary Order of

Forfeiture shall become final as to the defendant at the time of sentencing, and shall be made part of the sentence and included in the judgment.

IT IS FURTHER ORDERED that the United States may, at any time, move pursuant to Rule 32.2(e) to amend this Preliminary Order of Forfeiture to substitute property having a value not to exceed \$218,559.25 to satisfy the money judgment in whole or in part.

HONORABLE GREGORY M. SLEET
UNITED STATES DISTRICT JUDGE